

SAVING AMERICA'S RURAL HOUSING ACT OF 2006

—————  
JULY 27, 2006.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
—————

Mr. OXLEY, from the Committee on Financial Services,  
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5039]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5039) to establish a program to revitalize rural multi-family housing assisted under the Housing Act of 1949, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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## AMENDMENT

The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Saving America’s Rural Housing Act of 2006”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—The Congress finds that—

(1) section 502(c) of the Housing Act of 1949 restricts the rights of certain owners of projects for which loans were made or insured under section 515 of such Act to prepay such loans;

(2) expensive litigation against the Department of Agriculture has cost the taxpayers of the United States millions of dollars to date, funds that would be better spent preserving affordable multifamily housing;

(3) if such section 502(c) is partially repealed and the prepayment restrictions are eliminated for multifamily housing loans made before 1989 under section 515, it is expected, according to a report, that approximately 10 percent of the portfolio of such loans would be prepaid and those projects would leave the program;

(4) the average age of a multifamily housing project with a section 515 loan is 28 years, and therefore much of the portfolio of such projects is aging and in need of revitalization, while the need for affordable rural housing is increasing;

(5) section 515 projects house some of the poorest families in rural America, with almost 60 percent of the units occupied by senior citizens or persons with disabilities and an average annual household income among all occupants of approximately \$10,000;

(6) in many small towns and communities, rental housing financed by direct loans under section 515 is the only decent, affordable rental housing available; and

(7) consequently, any revitalization or disposition of this portfolio, which houses nearly 450,000 low-income families and seniors, should be handled with great care.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to authorize the Secretary of Agriculture to carry out a program that encourages, to the extent practicable, the retention of section 515 housing project developments for long-term use and the repair and preservation of such properties, and ensures that the minimum number of residents are displaced;

(2) to repeal a portion of section 502(c) of the Housing Act of 1949 to avoid further costly litigation against the Department of Agriculture;

(3) to preserve the availability of affordable rural housing by providing a voluntary mechanism for owners of multifamily rural housing projects with loans under section 515 to enter into loan restructuring agreements with the Secretary to provide capital for revitalization activities; and

(4) to provide for affordable rents for tenants who live in such projects that are revitalized under this Act and to protect tenants who live in such projects for which the loan is prepaid.

**SEC. 3. REVITALIZATION OF MULTIFAMILY HOUSING.**

(a) **REVITALIZATION PROGRAM.**—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

**“SEC. 544. REVITALIZATION AND TENANT PROTECTION VOUCHERS.**

“(a) **PURPOSE.**—The purposes of this section are—

“(1) to protect tenants who live in multifamily housing projects that are subsidized under this title and, in the case of prepayments of loans under section 515, to protect tenants that are displaced when the projects cease being eligible projects;

“(2) to strengthen the long-term viability of eligible projects;

“(3) to promote the revitalization of rural multifamily housing projects; and

“(4) to accomplish such several purposes—

“(A) by providing a voluntary mechanism for project owners to enter into loan restructuring agreements with the Secretary to obtain new types of financial assistance to rehabilitate and maintain the projects; and

“(B) by deregulating certain projects in a manner that still provides measurable performance standards and effective financing and rehabilitation of multifamily housing.

“(b) **REVITALIZATION.**—

“(1) IN GENERAL.—The Secretary shall, subject to the availability of amounts appropriated, carry out a revitalization program in accordance with this subsection to provide financial incentives and other assistance to owners of eligible projects through voluntary long-term use agreements entered into between the project owners and the Secretary.

“(2) APPLICATIONS TO PARTICIPATE.—The Secretary may accept applications from owners of eligible projects to participate in the revitalization program under this section.

“(3) LONG-TERM VIABILITY PLAN.—

“(A) REQUIREMENT.—The Secretary may prepare and approve a long-term viability plan under this paragraph with respect to each eligible project for which the owner requests to participate.

“(B) CONTENTS.—Each long-term viability plan for an eligible project shall include the following information:

“(i) PHYSICAL NEEDS ASSESSMENT.—A physical needs assessment of the project that identifies and projects, for the following 20 years—

“(I) all necessary repairs, improvements, maintenance, and management standards for the project, and when they will be made, in order to meet the requirements of this title; and

“(II) the costs associated with the items referred to in this subparagraph (A).

“(ii) FINANCIAL PLAN.—A financial plan for the project that—

“(I) reviews the financial stability of the project;

“(II) includes the loan restructuring elements, rent adjustments, management and operational efficiencies, and other financial adjustments to the project that are necessary to cover operating expenses for the project and maintain an adequate financial reserve for the future maintenance and capital needs of the project;

“(III) provides the project owner with a long-term rate of return on new capital, as determined by the Secretary, commensurate to comparable commercial multifamily housing projects;

“(IV) meets the physical needs for the project determined under the physical needs assessment;

“(V) ensures that rents available under the plan are affordable to eligible households in accordance with paragraph (7); and

“(VI) addresses any costs associated with any temporary tenant displacement resulting from renovations or rehabilitation undertaken as a result of participation of the project in the revitalization program.

“(C) DEVELOPMENT THROUGH PARTICIPATING ADMINISTRATIVE ENTITIES.—The Secretary may develop long-term viability plans through the use of third-party participating administrative entities, who may be a private contractor, a State housing finance agency, or a nonprofit organization.

“(D) REVITALIZATION DETERMINATION.—Based on the long-term viability plan for an eligible project, the Secretary shall determine whether to offer the project owner a financial restructuring plan under paragraph (4) and the financial incentives to be included in any such plan offered.

“(E) FINAL REVIEW AND COMMENT.—With respect to any long-term viability plan prepared by the Secretary, the Secretary shall provide the project owner an opportunity to review the plan and discuss the plan with the Secretary or its agent before a determination is made under subparagraph (D).

“(F) FEES.—The Secretary may charge the project owner a fee for preparation of the long-term viability plan.

“(G) PAYMENT OF FEES.—If a long-term viability for a project is approved, the payment of such fee may be incorporated into a project owner’s financial restructuring plan for the project provided by the Secretary pursuant to paragraph (4).

“(4) FINANCIAL RESTRUCTURING PLAN; REVITALIZATION INCENTIVES.—Based on the long-term viability plan for an eligible project, the Secretary may offer a project owner a financial restructuring plan for the project. Such a plan may include one or more of the following revitalization incentives:

“(A) Reduction or elimination of interest on the loan or loans for the project made under section 515.

“(B) Partial or full deferral of payments due under such loan or loans.

“(C) Forgiveness of such loan or loans.

“(D) Subordination of such loan or loans, subject to such terms and conditions as the Secretary shall determine.

“(E) Reamortization of loan payments under such loan or loans over extended terms.

- “(F) A grant from the Secretary for the project.
- “(G) Payment of project costs associated with developing the long-term viability plan.
- “(H) Opportunity for project owners to obtain further investment equity from third parties in the project.
- “(I) A direct loan or guarantee of a loan for the project, with a subsidized interest rate without regard to the value of the project.
- “(5) LONG-TERM USE AGREEMENT.—
- “(A) IN GENERAL.—If the owner of an eligible project agrees to the terms of a financial restructuring plan for the project providing revitalization benefits under paragraph (4), in exchange for such benefits, the Secretary and the project owner shall enter into a long-term use agreement under this paragraph for the project.
- “(B) AGREEMENT.—A long-term use agreement for an eligible project shall include—
- “(i) the terms of the financial restructuring plan for the project, including any revitalization incentives to be provided;
  - “(ii) an agreement by the project owner—
    - “(I) to continue the property use restrictions with respect to the project in accordance with this title for a period of (aa) 20 years, or (bb) the remaining term of any loans under this title for the project, whichever ends later;
    - “(II) to comply with the long-term viability plan for the project;
    - “(III) to comply with the rent terms under paragraph (7) for the project; and
    - “(IV) to make value payments under paragraph (6) to the Secretary, and the terms of such payments;
  - “(iii) provisions terminating the agreement if any revitalization incentives for the project to be provided under the agreement are no longer available and the Secretary determines that such unavailability is not the fault of the owner;
  - “(iv) any rent terms for the project pursuant to paragraph (7);
  - “(v) a covenant which runs with the land; and
  - “(vi) such other terms as the Secretary determines are necessary to implement the purposes of this section.
- “(6) SHARED VALUE AGREEMENTS.—Each long-term use agreement shall include a shared value agreement secured by the property of the eligible project that is the subject of the long-term use agreement, which shall determine how proceeds are divided at the end of the term of the loan or loans and shall require the project owner, at the end of such loan term or terms, to pay the lesser of—
- “(A) the sum of—
    - “(i) the amounts of any loan writedowns, write-offs, and interest subsidies provided in connection with the loan restructuring under this subsection, at the closing of revitalization;
    - “(ii) any outstanding principal and interest; and
    - “(iii) any non-loan funds provided by the Secretary under this subsection; or
  - “(B) 75 percent of the appraised value of the eligible project.
- “(7) RENTS UNDER LONG-TERM USE AGREEMENT.—In any eligible project that is subject to a long-term use agreement, rents for eligible households shall comply with the following requirements:
- “(A) MINIMUM RENT.—The Secretary, acting through the director of the applicable local agency or office of the Department responsible for carrying out the programs under this title in such area, may provide that each eligible household is charged a minimum monthly rent in an amount determined by such local director that does not in any case exceed \$25. The Secretary may allow exceptions to such minimum rent for an eligible household or groups of eligible households for demonstrated hardship, as determined by the Secretary, which hardship exceptions, if allowed by the Secretary, shall include the hardship exceptions provided or established by the Secretary of Housing and Urban Development, as appropriate, under subclauses (I) through (V) of section 3(a)(3)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(3)(B)(i)).
- “(B) MAXIMUM HOUSEHOLD CONTRIBUTION TO RENT.—Notwithstanding any minimum monthly rent established pursuant to subparagraph (A), the maximum household contribution to monthly rent for any eligible household may not exceed 30 percent of the adjusted income of the eligible household.

Such local director may take actions as may be necessary to verify tenant incomes for purposes of carrying out this subparagraph.

“(C) RENT ADJUSTMENTS.—The rents for eligible households may be increased or decreased only on an annual basis and only in accordance with standards incorporated in such agreement. The Secretary shall issue regulations establishing such standards, which shall include standards for rents that are considered affordable for eligible households for the area in which a project is located and for establishing rents that conform to such standards.

“(8) LOWEST COST REQUIREMENT.—In determining the terms of a restructuring plan, and the type and amount of revitalization benefits under such plan to approve under this subsection for an eligible project, the Secretary shall, to the extent practicable, approve assistance that imposes the least cost to the Secretary while meeting the requirements of the long-term viability plan for the project.

“(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the revitalization program under this subsection.

“(c) HOMEOWNERSHIP OPPORTUNITIES.—The owner of an eligible project may, in conjunction with revitalization of the project pursuant to this section, propose a sale to a tenant-based condominium or cooperative. Any such proposal shall be subject to a notice to tenants under terms that the Secretary shall establish.

“(d) DETERMINATION OF INELIGIBILITY.—

“(1) PROCEDURE.—The Secretary may determine that a project owner is ineligible for participation in the revitalization program under this section in accordance with the standards under paragraph (2).

“(2) STANDARDS.—The Secretary may determine that a project owner is ineligible if—

“(A) the project owner has a history of poor management or maintenance of multifamily housing properties;

“(B) the project owner is in default on a loan made available under the section 514 or 515 housing program;

“(C) the Secretary is unable to enter into a long-term use agreement for the project that is the subject of the application with the project owner within a reasonable time;

“(D) the project owner is suspended or debarred from participating in Federal contracts or programs; or

“(E) the Secretary has other good cause for withholding from the project owner the benefits made available under this section.

“(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) ELIGIBLE HOUSEHOLD.—The term ‘eligible household’ means a household that, under section 515, is eligible to reside in a project funded with a loan made by the Secretary under such section.

“(2) ELIGIBLE PROJECT.—The term ‘eligible project’ means a housing project funded with a loan made at any time by the Secretary under section 515, the principal obligation of which has not been fully repaid.

“(3) PROJECT OWNER; OWNER.—The terms ‘project owner’ and ‘owner’ mean, with respect to an eligible project, an individual or entity, or principals thereof that own, or plan to purchase, the project.”

(b) PRIORITY FOR SECTION 515 FINANCING.—Subsection (j) of section 515 of the Housing Act of 1949 (42 U.S.C. 1485(j)) is amended—

(1) by inserting “(1)” before “For”; and

(2) by adding at the end the following new paragraph:

“(2) The Secretary may give priority, in entering into contracts under this section involving financing for new construction of a project, for projects located in areas having a need for affordable low-income rental housing due to prepayment of loans made or insured under this section.”

(c) PARTIAL REPEAL OF PREPAYMENT RESTRICTIONS; ADMINISTRATION OF PREPAYMENT REQUESTS.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1472) is amended—

(1) in subsection (c)—

(A) by striking “or 515” each place such term appears;

(B) in paragraph (4)(B)—

(i) by striking clause (iv);

(ii) by redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively; and

(iii) by realigning clause (v) (as so redesignated by clause (ii) of this subparagraph) so as to be indented two ems from the left margin; and

(C) in paragraph (5)(G)(i)(I), by striking “, as the case may be,”; and  
 (2) by adding at the end the following new subsection:

“(i) PREPAYMENT OF SECTION 515 MULTIFAMILY HOUSING LOANS.—

“(1) ADMINISTRATION.—

“(A) PLAN.—The Secretary shall develop a plan to administer requests to prepay (not made in connection with any revitalization under section 544) any loan made under section 515. The plan shall provide for administration of voucher assistance in accordance with paragraph (3). The plan shall encourage and facilitate owners of projects to maintain the projects, or to transfer projects to owners who will maintain projects, as housing affordable to low-income residents, but shall not prevent an owner from prepaying.

“(B) IMPLEMENTATION.—The Secretary shall implement this subsection not later than the expiration of the 90-day period beginning on the date of the enactment of the Saving America’s Rural Housing Act of 2006. Notwithstanding that full implementation of this subsection may not have been completed, the Secretary may not delay the processing of any request to prepay a loan made under section 515.

“(2) NOTICE OF PREPAYMENT OR SALE.—In preparation for prepayment of a loan made or insured under section 515, the project owner shall, not less than 120 days before the date of prepayment of the loan or sale of the project for which the loan was made, provide the following notices:

“(A) NOTICE TO TENANTS.—To the tenants of the project, notice of the prepayment, as follows:

“(i) The notice shall include information sufficient to inform each tenant of the plan after prepayment for the project, in which they reside as a tenant, and whether such plan may result in, or is likely to result in, the tenant being required to move and the earliest date that the tenant’s lease will expire or the tenant may have to move, and of the availability of vouchers pursuant to paragraph (3), actions tenants must take to receive voucher assistance, the date prepayment is expected to take place, a telephone number and electronic mail address at which to contact the owner of the project, and any limitations, use, and other terms the Secretary considers appropriate.

“(ii) In the case of any prepayment involving transfer of the ownership of a project, the notice shall include the name of the transferee, the date that the transfer was agreed to, the date the transfer is to take place, and telephone numbers and electronic mail addresses at which to contact the transferor and transferee.

“(B) NOTICE TO SECRETARY.—To the Secretary, notice that the requirements under subparagraph (A) have been met, which shall identify the date that notice under such subparagraph was made and the names of each tenant to which such notice was provided.

“(3) RURAL TENANT PROTECTION VOUCHERS.—

“(A) IN GENERAL.—In the case of a housing project subject to a loan made under section 515, if the loan is prepaid or foreclosed upon, the Secretary shall, to the extent that amounts for assistance under this paragraph are provided in advance in appropriation Acts, offer voucher assistance to each low-income family who on the date that notice is provided in accordance with paragraph (2)(A) is residing in a dwelling unit in the project.

“(B) USE.—A voucher under this paragraph for a family may be used for rental of a dwelling unit in the project that the family resides in on the date of the notice in accordance with paragraph (2)(A) or for a dwelling unit elsewhere.

“(C) RENEWAL.—Vouchers under this paragraph shall be renewed annually, subject to the availability of appropriations for such renewal, during the period that the family assisted remains eligible for such assistance.

“(D) RIGHT TO USE.—In the case of a project for which a loan made under section 515 is prepaid—

“(i) a family residing in such project on the date of prepayment may elect to remain in the unit in which the family was residing on such date; and

“(ii) the owner of the project may not refuse to lease, to a family for whom voucher assistance under this paragraph is made available, any available rental dwelling unit in the project.

“(E) AMOUNT OF ASSISTANCE.—The amount of rental assistance provided under a voucher under this paragraph on behalf of a tenant shall be the amount by which—

“(i) the lesser of (I) the rent for the dwelling unit rented using such voucher, or (II) the rent for a comparable unit in the same market area as the housing project for which the loan was prepaid; exceeds

“(ii) the lesser of (I) the amount of rent paid by the tenant for the dwelling unit occupied by the tenant at the time of the prepayment referred to in paragraph (I), or (II) the amount equal to 30 percent of the tenant’s adjusted income (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

“(F) RURAL AFFORDABLE VOUCHER.—For communities with insufficient affordable housing alternatives, and in the case of any elderly or disabled tenant who is eligible for a voucher under this paragraph and has a need to move to another community to be near immediate family or necessary medical services, as determined by the Secretary, voucher assistance under this paragraph may be provided in accordance with section 8(t)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)(1)).

“(G) ADMINISTRATION.—To the maximum extent practicable, the Secretary shall administer voucher assistance under this paragraph in accordance with, but not subject to, regulations and administrative guidance for housing vouchers administered by the Secretary of Housing and Urban Development under section 8 of such Act.

“(H) HOMEOWNERSHIP OPPORTUNITIES.—A voucher under this paragraph may be used by a tenant to make payments towards the purchase of a single-family home anywhere in the United States, subject to subsidy limits for vouchers under this title and the same limitations applicable under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to the use of tenant-based assistance under such section 8 for homeownership.

“(I) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for tenant protection vouchers under this paragraph—

“(i) for fiscal year 2007, \$74,000,000; and

“(ii) for each of fiscal years 2008 through 2011, the amount necessary to provide vouchers in each such fiscal year for all of the families identified in subparagraph (A).

“(4) PREPAYMENT STANDARDS FOR PRE-1989 LOANS.—In the case of a loan made or insured under section 515 pursuant to a contract entered into before December 15, 1989:

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall approve any offer to prepay such a loan that meets the following requirements:

“(i) The borrower under the loan has not been provided any assistance to extend low-income use pursuant to section 502(c)(4) of this Act, as such section was in effect before the date of the enactment of the Saving America’s Rural Housing Act of 2006.

“(ii) The loan was not at any time restricted by servicing actions, including transfers.

“(iii) The 20-year period during which the project is subject to use restrictions under the loan has concluded.

“(B) PROHIBITION.—The Secretary may not approve any offer to prepay such a loan during the 20-year period during which the project is subject to use restrictions under the loan.

“(5) SALE RESTRICTIONS AND MARKETING ASSISTANCE.—

“(A) SALE RESTRICTIONS.—During the period that begins upon the owner providing notice to the Secretary under paragraph (2)(B) and having a duration of 75 days, the owner may not sell the property except to a purchaser who enters into such binding agreements for purchase at market rates as the Secretary considers necessary to continue the property use restrictions with respect to the project in accordance with this title for a period of 20 years. This paragraph may not be construed to prohibit an owner, during such period, from soliciting or receiving any offers of sale or purchase.

“(B) MARKETING ASSISTANCE.—

“(i) DATABASE OF POTENTIAL BUYERS.—The Secretary shall establish and maintain a database of potential buyers of projects with loans made under section 515. Such database shall include only persons who have expressed an interest to the Secretary in purchasing such projects at fair market value and maintaining the projects for use as affordable housing.

“(ii) PUBLIC NOTIFICATION OF PREPAYMENT.—Upon notification to the Secretary under paragraph (2)(B) regarding prepayment of a loan for a project, the Secretary shall make publicly available, on the appropriate World Wide Web site of the Department or by other appropriate

electronic method, including individual notification, a notice containing information sufficient, in the determination of the Secretary, to notify persons with an interest in purchasing the project of the prepayment.”.

**SEC. 4. CONFORMING AMENDMENTS TO TITLE V OF THE HOUSING ACT OF 1949.**

Title V of the Housing Act of 1949 is amended—

(1) in section 502(b)(2) (42 U.S.C. 1472(b)(2))—

(A) by striking “or 515”; and

(B) by inserting before the semicolon at the end the following: “and any prepayment of a loan made or insured under section 515 shall be subject to the provisions of subsection (i)”;

(2) in section 537(b)(1) (42 U.S.C. 1490p–1(b)(1)), by inserting before the semicolon the following: “and to administer the revitalization program under section 544”.

**SEC. 5. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on October 10, 2007.

**PURPOSE AND SUMMARY**

H.R. 5039, the Saving America’s Rural Housing Act of 2006, was introduced to serve three goals: (1) preserve affordable section 515 housing, (2) remove restrictions on prepayment of certain pre-1989 section 515 loans, and (3) protect tenants living in prepaid section 515 properties. To preserve the section 515 portfolio, this legislation will create a revitalization program to give owners a chance to restructure existing debt and make necessary renovations and repairs. H.R. 5039 will also repeal statutory restrictions on the prepayment of eligible pre-1989 loans, thus allowing owners to prepay certain section 515 loans. Additionally, this bill provides a number of tenant protections both for tenants living in revitalized properties and for tenant displaced or affected by prepayment.

**BACKGROUND AND NEED FOR LEGISLATION**

The section 515 rural multifamily housing program allows Rural Development to make direct loans to owners and developers of rural, affordable apartment housing. Section 515 apartment housing is the only affordable housing available for low-income families in many rural communities. While the need for affordable rural housing is increasing, construction of new section 515 properties has slowed and the average age of these properties is 28 years. To preserve this housing for the future, the Saving America’s Rural Housing Act of 2006 will create a revitalization program to allow for new financing for ailing section 515 properties. Under H.R. 5039, section 515 owners will be offered incentives, such as loan restructuring, to encourage the preservation of these properties and to decrease the likelihood that they will be converted to other uses. Without the injection of new capital that the revitalization program will provide, section 515 units may cease to be an option for many families seeking affordable, decent rural housing.

USDA Rural Development has its origins in the Housing Act of 1949 legislation recognizing that shortages of quality housing exist in rural areas. For over 50 years, Rural Development—through various loan and grant programs—has aided in financing both single- and multi-family housing for rural families. The section 515 program helps nearly 500,000 of the very poorest rural residents, with an average annual income of about \$9,000, by financing 50-year, 1 percent loans to limited-profit and nonprofit developers to

construct or renovate affordable rental complexes in rural areas. In exchange for the very-low interest loan, owners of these developments agree to adhere to use restrictions for the property, generally for a term of 20 years. For FY 2006, \$99 million was appropriated for section 515 direct loans.

Typically, residents of section 515 housing also receive section 521 rental assistance and pay a maximum of 30 percent of their income toward rent and utilities. However, of the nearly 500,000 residents in section 515 housing, almost 80,000 do not receive rental assistance and thus pay more than 30 percent of their income towards rent. The section 515 portfolio currently contains about 17,000 existing multi-family properties. According to the comprehensive needs assessment study conducted in 2004, if restrictions are lifted and prepayment is allowed for eligible, pre-1989 loans, around 10 percent of the section 515 portfolio is expected to prepay and leave the program, mostly because these properties are located in areas that were rural at the time of construction but could now be considered suburban or even urban. Thus, these properties could likely generate a much higher market rent. In anticipation of both a section 515 revitalization program and prepayment reform, USDA Rural Development was appropriated \$25 million to administer demonstration revitalization and voucher programs for FY 2006.

Additionally, this legislation will repeal restrictions on the prepayment of certain section 515 loans made before 1989 in order to alleviate costly litigation against the USDA over these provisions. According to industry experts, owners who entered the section 515 program in the 1980's viewed the direct loan as a first mortgage, to later be refinanced by private debt. Rural Development data made available to Committee staff reveals that many owners of section 515 properties tend to be either community leaders seeking to improve the availability of affordable housing for residents, non-profit groups, or farmers. In 1985 and 1986, Congress received complaints that elderly and low-income tenants were being displaced as a result of section 515 prepayment, as owners' contracts included the explicit right to prepayment. As a reaction, P.L. 100-424, the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA), was signed into law on February 5, 1988. This legislation placed a number of restrictions on prepayment and required the USDA to encourage owners to stay in the program. Further, this act was also applied retroactively to contracts that specifically permitted prepayment. On October 28, 1992, P.L. 102-550 was signed into law, extending ELIHPA restrictions retroactively to section 515 projects funded before December 15, 1989. It should be noted that section 515 contracts after this date include a provision restricting prepayment.

The Federal government has spent millions of dollars defending lawsuits brought by section 515 owners hoping to circumvent retroactive prepayment restrictions on certain loans. One set of owners has been allowed to bypass the prepayment process by suing for quiet title (e.g., removing encumbrances on the property such as rent restrictions). See *Kimberly Associates v. United States*, No. CV-98-0083-S-LMB (D. Idaho 2002) (on remand from the U.S. Court of Appeals for the Ninth Circuit).

Other owners have not been successful in achieving the same results. The U.S. Court of Appeals for the Eighth Circuit has twice upheld the prepayment restrictions and declined to allow owners to bypass them through a quiet title action. See *Parkridge v. Farmers Home Administration*, 13 F.3d 1192 (8th Cir. 1994) and *Charleston Housing Authority v. USDA*, 419 F.3d 729 (8th Cir. 2005).

In 2004, however, the U.S. Court of Federal Claims held that the retroactive restrictions on prepayment created by ELIHPA amounted to a breach of contract by the federal government. See *Franconia Associates v. United States*, 61 Fed. Cl. 718 (Fed. Cl. 2004). As a remedy, the plaintiff-owners have successfully sought money damages, with the average damage award per property exceeding \$400,000.

In an effort to relieve the federal government of future damage awards, H.R. 5039 would repeal these restrictions so that owners who have fulfilled their contractual obligations to the Department of Agriculture may prepay section 515 loans without pursuing costly lawsuits that would likely be decided against the Federal government. The enactment of H.R. 5039 could enable Federal funds that might otherwise be directed towards litigation expenses, to be used for housing preservation and rental assistance.

Keeping in mind that repealing restrictions on prepayment of pre-1989 section 515 loans will lead some properties to leave the program, this legislation contains significant protections for tenants who will either be displaced by prepayment or face rising, unaffordable rents. The voucher program created by this bill is designed to ensure that tenants are not disadvantaged by prepayment. Tenants receiving a voucher will not be responsible for additional rent beyond what they paid at their old unit before prepayment and will have the opportunity to elect to remain in their current unit post-prepayment. Additionally, H.R. 5039 requires owners to provide residents detailed notice of prepayment at least 120 days before the date of prepayment. When Rural Development is informed of an owner's plans to prepay, it will be required to post information related to the upcoming prepayment on the USDA website; it will also have the authority to send personal email notice to parties interested in purchasing section 515 properties and maintaining them in the program. These measures will increase the likelihood that the development will remain in the section 515 program after prepayment without unnecessarily burdening owners. Many of the tenant protections included in this bill mirror provisions used by the U.S. Department of Housing and Urban Development's section 8 program, creating conformity and easing implementation.

In order to preserve the section 515 portfolio, H.R. 5039 creates a revitalization program so that owners may restructure existing debt, thereby increasing the funding available to make necessary repairs and renovations. In 2004, the USDA completed a comprehensive property assessment study and published its findings. According to the released report, all surveyed section 515 properties were lacking adequate reserves and cash flow to cover repairs and maintenance over time, thus drawing attention to the need for increased financing and preservation of these properties. The restructuring program created by this legislation will allow for essential repairs and renovations, thus preserving the section 515

portfolio for years to come. Without this restructuring program, there will be a greater need for new construction, which is ultimately more expensive than preserving existing units. Rural Development launched a restructuring demonstration program in FY 2006 and has received thousands of applications from interested owners.

Believing that preserving these properties now is much more efficient than commissioning new construction later, the Committee understands that tenants currently living in the development to be restructured could face higher rents, as owners may initially encounter increased costs at the time of restructuring. Thus, it is the Committee's intent that residents of section 515 properties at the time of restructuring be protected from such costs.

Further, it is the Committee's intent that "overburdened" tenants living in developments at the time of restructuring—those paying over 30 percent of income towards rent—find relief. To that end, H.R. 5039 provides that a tenant living in a restructured property must contribute no more than 30 percent of his or her income towards rent.

#### HEARINGS

The Subcommittee on Housing and Community Opportunity held a legislative hearing on April 25, 2006, on H.R. 5039, the Saving America's Rural Housing Act of 2006. The following witnesses testified: Mr. Russell T. Davis, Administrator for Rural Development Housing and Community Facilities Programs, U.S. Department of Agriculture; Mr. Gideon Anders, Executive Director, National Housing Law Project; Mr. James N. Arbury, Senior Vice President of Government Affairs, National Multi Housing Council, and also on behalf of the National Apartment Association; Mr. Thomas Carew, Red River Director, Frontier Housing, Inc.; Mr. Moises Loza, Executive Director, Housing Assistance Council; Mr. Robert A. Rapoza, Executive Secretary, National Rural Housing Coalition; Mr. Robert L. Rice, Jr., President, Council for Affordable and Rural Housing; Mr. Charles Wehrwein, Senior Vice President, Mercy Housing, Inc.

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 14, 2006, and ordered reported H.R. 5039, Saving America's Rural Housing Act of 2006, as amended, reported to the House by a voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Oxley to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote. During the consideration of the bill, the following amendments were considered:

An amendment in the nature of a substitute recommended by the Subcommittee on House and Community Opportunity, making var-

ious technical and substantive changes, as amended, was AGREED TO by a voice vote.

The following amendments to the Subcommittee amendment were considered:

An amendment by Mr. Neugebauer, No. 1, providing maximum tenant rent subject to appropriations, was WITHDRAWN.

An en bloc amendment by Mr. Davis (KY), No. 2, including the following amendments: Mr. Davis (KY) technical amendment; Mr. Davis (AL) enhanced voucher expiration; Mr. Cleaver extend prepayment notice period; and Mr. Sanders striking “proximate cause”, was AGREED TO by a voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

#### PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 5039, the Saving America’s Rural Housing Act of 2006, will serve three goals: (1) preserve affordable section 515 housing, (2) remove restrictions on prepayment of certain pre-1989 section 515 loans, and (3) protect tenants living in prepaid section 515 properties. To preserve the section 515 portfolio, this legislation will create a revitalization program to give owners a chance to restructure existing debt and make necessary renovations and repairs. H.R. 5039 will also repeal statutory restrictions on the prepayment of eligible pre-1989 loans, thus allowing owners to prepay certain section 515 loans. Additionally, this bill provides a number of tenant protections both for tenants living in revitalized properties and for tenant displaced or affected by prepayment.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

JULY 10, 2006.

Hon. MICHAEL G. OXLEY,  
*Chairman, Committee on Financial Services,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5039, the Saving America's Rural Housing Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DONALD B. MARRON,  
*Acting Director.*

Enclosure.

*H.R. 5039—Saving America's Rural Housing Act of 2006*

Summary: H.R. 5039 would require the Rural Housing Service (RHS) within the Department of Agriculture to implement a program aimed at preserving rural rental housing supported by section 515 of the Housing Act of 1949 by restructuring loans on existing properties. Under the legislation, RHS would provide housing vouchers to certain families who would be displaced if property owners prepay the mortgages on properties where they now reside. The effective date of those provisions of the bill is October 10, 2007. CBO estimates that implementing this legislation would cost \$585 million over the 2008–2011 period and additional amounts after 2011, assuming appropriation of the necessary amounts. Enacting this bill would not affect direct spending or revenues.

Section 515 of the Housing Act of 1949 provides RHS with the authority to make direct loans to developers to build affordable multifamily rental housing in rural areas for very low-income families, elderly people, and persons with disabilities. Owners of projects financed through section 515 must maintain rents at affordable levels, usually for a minimum of 20 years. According to RHS and housing industry experts, construction of new section 515 properties has slowed in recent years, existing units are deteriorating, and an increasing number of project owners want to prepay their mortgages. Such prepayments would probably displace tenants who cannot afford housing in projects that are not subsidized.

Under H.R. 5039, RHS would provide financial incentives, such as loan forgiveness and direct loans, to owners of section 515 housing who agree not to prepay their mortgages. H.R. 5039 would authorize the appropriation of such sums as may be necessary each year to implement those financial incentives.

H.R. 5039 also would authorize RHS to provide vouchers to those families residing in projects where the owners choose not to participate in the new program and to prepay their mortgages on section 515 properties. Such vouchers could be used by the affected tenants to stay in the same project or to rent or purchase housing elsewhere. This legislation would authorize the appropriation of such amounts as necessary to provide vouchers over the 2008–2011 period.

H.R. 5039 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5039 is shown in the following table. The costs of this legislation fall within budget functions 370 (mortgage and housing credit) and 600 (income security).

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION						
RHS Rental Assistance Spending Under Current Law:						
Estimated Authorization Level <sup>1</sup> .....	647	659	670	683	695	707
Estimated Outlays .....	849	871	904	880	803	766
Proposed Changes:						
Mortgage Restructuring:						
Estimated Authorization Level .....	0	0	27	41	57	45
Estimated Outlays .....	0	0	27	41	57	45
Rural Tenant Protection Vouchers:						
Estimated Authorization Level .....	0	0	74	135	158	162
Estimated Outlays .....	0	0	22	92	142	159
Total Changes:						
Estimated Authorization Level .....	0	0	101	176	215	207
Estimated Outlays .....	0	0	49	133	199	204
Total Spending Under H.R. 5039:						
Estimated Authorization Level .....	647	659	771	859	910	914
Estimated Outlays .....	849	871	953	1,013	1,002	970

<sup>1</sup>The amount shown for 2006 is the amount appropriated for rental assistance in that year. The 2007–2011 levels are CBO baseline projections, assuming adjustments for anticipated inflation.

Note.—RHS = Rural Housing Service.

Basis of estimate: CBO estimates that implementing H.R. 5039 would cost \$585 million over the 2008–2011 period, assuming appropriation of the necessary amounts. Of that amount, CBO estimates that about \$170 million would be spent by RHS to restructure mortgages and \$415 million would be used by RHS to provide tenant protection vouchers. Details of these two provisions are provided below.

#### *Mortgage restructuring*

Under this legislation, long-term viability plans would be developed for those owners of section 515 properties who choose to have their mortgages restructured. A long-term viability plan would include an assessment of a project's physical needs and a financial plan that addresses the restructuring tools needed to cover operating expenses and physical needs of the project. The restructuring tools that could be used include loan forgiveness and a reduction or elimination of interest. In return for such assistance, owners would agree to enter into long-term commitments with RHS to make low-income rental housing available for the greater of 20 years or the remaining loan term.

According to RHS, the portfolio of section 515 loans encompasses almost 16,000 properties with nearly 450,000 units. Furthermore, of these roughly 16,000 properties, around 9,560 will be eligible for prepayment over the 2008–2011 period because their 20-year rent restrictions will be expiring. The remaining balance of properties (around 6,440 properties) include about 4,000 properties that are eligible for prepayment after 2011, 1,480 properties that are not under consideration for prepayment despite being currently eligible, and about 960 properties that will have their mortgages prepaid or will have their mortgages restructured under an ongoing demonstration program by the end of fiscal year 2007.

The ongoing agency demonstration program that offers mortgage restructuring indicates that the vast majority of property owners eligible for prepayment would be interested in obtaining some form of financial assistance to prevent defaulting on their mortgages. Based on information from RHS, CBO estimates that 88 percent of the 9,560 properties eligible for prepayment over the 2008–2011 period would undergo a mortgage restructuring; the remaining 12 percent would prepay their mortgages. We estimate that the restructuring tools used would cost \$20,000 for an average property with a \$700,000 outstanding loan balance. The cost to restructure mortgages for about 8,400 properties would be about \$170 million over the 2008–2011 period.

*Rural tenant protection vouchers*

Under this legislation, RHS would provide tenant protection vouchers that would be annually renewable to families residing in properties whose owners prepay their section 515 loans. Based on information from RHS, CBO estimates that owners of about 1,150 properties (with about 34,500 units) in the section 515 loan program would opt to prepay their mortgages over the 2008–2011 period. CBO assumes that families in all of the affected 34,500 units would elect to receive a voucher. Assuming that the average cost of a voucher would be \$4,400 in fiscal year 2008 (adjusted for inflation in subsequent years) and that those vouchers would be renewed annually, CBO estimates that this provision would cost \$415 million over the 2008–2011 period.

Intergovernmental and private-sector impact: H.R. 4804 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Susanne S. Mehlman and Chad Chirico. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

The short title of this bill is the “Saving America’s Rural Housing Act of 2006.”

*Section 2. Findings and purposes*

This section sets forth certain findings, including the need for a revitalization program to rehabilitate ailing section 515 housing projects and to protect tenants. This section also lists the purposes of the Act.

*Section 3. Revitalization of multifamily housing*

This section amends Title V of the Housing Act of 1949 by adding a new section 544 to allow Rural Development and section 515 project owners to enter into voluntary Long-Term Use Agreements. The Long-Term Use Agreement will require section 515 project owners, in exchange for receiving financial incentives for use in making repairs and renovations, to agree to continue property-use restrictions for at least 20 years. Before entering into the Use Agreement, Rural Development will prepare a Long-Term Viability Plan that will assess the needs of the project for the next 20 years. This Plan will help determine the specific financial incentives the owner will be offered as part of the restructuring program.

This section also allows for the partial repeal of section 515 prepayment restrictions, so that owners of pre-1989 properties who have fulfilled their contractual duties to the USDA may prepay and leave the program. Owners who wish to prepay their section 515 loan will be required to provide detailed notice of prepayment to tenants at least 120 days before the owner sells or prepays the loan.

To protect tenants who will either be displaced by prepayment or who will face rising, unaffordable rents post-prepayment, this section creates a voucher program with two types of voucher assistance. Rural Tenant Protection vouchers will be available for families on the date they receive notice of the impending prepayment. This voucher will strive to make-up the difference between the tenant’s rent before prepayment and the rental amount after (for either that same unit or a comparable unit), so that families are not disadvantaged by prepayment. Rural Affordable vouchers will be available for tenants affected by section 515 prepayment living in communities that lack sufficient affordable housing alternatives and will be administered in accordance with section 8 of the HUD statute. These vouchers will also be available for elderly and disabled tenants who need to move to another community to access necessary medical services or to be near immediate family.

Under this section, voucher-holding tenants living in section 515 units subject to prepayment may elect to remain in their unit and

owners of these properties may not refuse to rent to a family holding such a voucher.

This section also requires that, for 75 days after the section 515 owner notifies the USDA Secretary of his or her intention to prepay, the owner must entertain market-rate offers to purchase the project from non-profits or other groups or individuals who will keep the property affordable for 20 years. Rural Development is also directed to establish maintain a database of potential buyers who have expressed an interest in purchasing section 515 properties. The agency will then use this database to post electronic notice of upcoming prepayments and, if appropriate, may also disseminate individual, electronic notice to interested parties.

*Section 4. Conforming amendments to Title V of the Housing Act of 1949*

This section provides instructions to conform this legislation to existing law.

*Section 5. Effective date*

If enacted, this legislation will take effect on October 1, 2007.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE V OF THE HOUSING ACT OF 1949**

TITLE V—FARM HOUSING

\* \* \* \* \*

LOANS FOR HOUSING AND BUILDINGS ON ADEQUATE FARMS

SEC. 502. (a) \* \* \*

(b) The instruments under which the loan is made and the security given shall—

(1) \* \* \*

(2) provide for the repayment of principal and interest in accordance with schedules and repayment plans prescribed by the Secretary, except that any prepayment of a loan made or insured under section 514 [or 515] shall be subject to the provisions of subsection (c) *and any prepayment of a loan made or insured under section 515 shall be subject to the provisions of subsection (i)*;

\* \* \* \* \*

(c)(1)(A) The Secretary may not accept an offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 [or 515] of this title pursuant to a contract entered into after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989, unless the Secretary takes appropriate action which will obligate the borrower (and successors in interest thereof) to utilize the assisted housing and related facilities

for the purposes specified in section 514 [or 515], as the case may be, for a period of—

(i) \* \* \*

\* \* \* \* \*

(2) If any loan which was made or insured under section 514 [or 515] pursuant to a contract entered into prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989, is prepaid or refinanced on or after the date of enactment of the Housing and Community Development Act of 1980, and tenants of the housing and related facilities financed with such loan are displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of such prepayment or refinancing, the Secretary shall provide such tenants a priority for relocation in alternative housing assisted pursuant to this title.

(3) NOTICE OF OFFER TO PREPAY.—Not less than 30 days after receiving an offer to prepay any loan made or insured under section 514 [or 515], the Secretary shall provide written notice of the offer or request to the tenants of the housing and related facilities involved, to interested nonprofit organizations, and to any appropriate State and local agencies.

(4)(A) AGREEMENT BY BORROWER TO EXTEND LOW INCOME USE.—Before accepting any offer to prepay, or requesting refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 [or 515] pursuant to a contract entered into prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989, the Secretary shall make reasonable efforts to enter into an agreement with the borrower under which the borrower will make a binding commitment to extend the low income use of the assisted housing and related facilities involved for not less than the 20-year period beginning on the date on which the agreement is executed.

(B) ASSISTANCE AVAILABLE TO BORROWER TO EXTEND LOW INCOME USE.—To the extent of amounts provided in appropriation Acts, the agreement under subparagraph (A) may provide for 1 or more of the following forms of assistance that the Secretary, after taking into account local market conditions, determines to be necessary to extend the low income use of the housing and related facilities involved:

(i) \* \* \*

\* \* \* \* \*

[(iv) An equity loan to the borrower under paragraphs (1) and (2) of section 515(c) or under paragraphs (1) and (2) of section 514(j), except that an equity loan referred to in this clause may not be made available after the date of the enactment of the Act entitled “An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes”, unless the Secretary determines that the other incentives available under this subparagraph are not adequate to provide a fair return on the investment of the borrower, to prevent prepayment of the loan insured under section 514 [or 515], or to prevent the displacement of tenants of the housing for which the loan was made.]

[(v)] (iv) Incremental rental assistance in connection with loans under clauses (ii) and (iv) to the extent necessary to avoid increases in the rental payments of current tenants not receiving rental assistance under section 521(a)(2) or under section 8 of the United States Housing Act of 1937, or current tenants of projects not assisted under section 521(a)(5).

[(vi)] (v) In the case of a project that has received rental assistance under section 8 of the United States Housing Act of 1937, permitting the owner to receive rent in excess of the amount determined necessary by the Secretary to defray the cost of long-term repair or maintenance of such a project.

(C) APPROVAL OF ASSISTANCE.—The Secretary may approve assistance under subparagraph (B) for assisted housing only if the restrictive period has expired for any loan for the housing made or insured under section 514 [or 515] pursuant to a contract entered into after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989, and the Secretary determines that the combination of assistance provided—

(i) \* \* \*

\* \* \* \* \*

(5)(A) \* \* \*

\* \* \* \* \*

(C) FINANCING OF SALE.—To facilitate the sale described in subparagraph (A), the Secretary shall—

(i) \* \* \*

(ii) approve the assumption, by the nonprofit organization or public agency involved, of the loan made or insured under section 514 [or 515];

\* \* \* \* \*

(F) GENERAL RESTRICTION ON PREPAYMENTS AND REFINANCINGS.—Following the transfer of the maximum number of dwelling units set forth in subparagraph (H)(i) in any fiscal year or the maximum number of dwelling units for which budget authority is available in any fiscal year, the Secretary may not accept in such fiscal year any offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 [or 515] pursuant to a contract entered into prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989, except in accordance with subparagraph (G). The limitation established in this subparagraph shall not apply to an offer to prepay, or request to refinance, if, following the date on which such offer or request is made (or following the date of the enactment of the Housing and Community Development Act of 1987, whichever occurs later) a 15-month period expires during which no budget authority is available to carry out this paragraph. For purposes of this subparagraph, the Secretary shall allocate budget authority under this paragraph in the order in which offers to prepay, or request to refinance, are made.

(G) EXCEPTION.—This paragraph shall not apply to any offer to prepay, or any request to refinance in accordance with subsection (b)(3), any loan made or insured under section 514 [or 515] pursuant to a contract entered into prior to the date of enactment of the

Department of Housing and Urban Development Reform Act of 1989, if—

(i) the borrower enters into an agreement with the Secretary that obligates the borrower (and successors in interest thereof)—

(I) to utilize the assisted housing and related facilities for the purposes specified in section 514 [or 515, as the case may be,] for a period determined by the Secretary (but not less than the period described in paragraph (1)(B) calculated from the date on which the loan is made or insured); and

\* \* \* \* \*

(i) *PREPAYMENT OF SECTION 515 MULTIFAMILY HOUSING LOANS.*—

(1) *ADMINISTRATION.*—

(A) *PLAN.*—*The Secretary shall develop a plan to administer requests to prepay (not made in connection with any revitalization under section 544) any loan made under section 515. The plan shall provide for administration of voucher assistance in accordance with paragraph (3). The plan shall encourage and facilitate owners of projects to maintain the projects, or to transfer projects to owners who will maintain projects, as housing affordable to low-income residents, but shall not prevent an owner from prepaying.*

(B) *IMPLEMENTATION.*—*The Secretary shall implement this subsection not later than the expiration of the 90-day period beginning on the date of the enactment of the Saving America’s Rural Housing Act of 2006. Notwithstanding that full implementation of this subsection may not have been completed, the Secretary may not delay the processing of any request to prepay a loan made under section 515.*

(2) *NOTICE OF PREPAYMENT OR SALE.*—*In preparation for prepayment of a loan made or insured under section 515, the project owner shall, not less than 120 days before the date of prepayment of the loan or sale of the project for which the loan was made, provide the following notices:*

(A) *NOTICE TO TENANTS.*—*To the tenants of the project, notice of the prepayment, as follows:*

(i) *The notice shall include information sufficient to inform each tenant of the plan after prepayment for the project, in which they reside as a tenant, and whether such plan may result in, or is likely to result in, the tenant being required to move and the earliest date that the tenant’s lease will expire or the tenant may have to move, and of the availability of vouchers pursuant to paragraph (3), actions tenants must take to receive voucher assistance, the date prepayment is expected to take place, a telephone number and electronic mail address at which to contact the owner of the project, and any limitations, use, and other terms the Secretary considers appropriate.*

(ii) *In the case of any prepayment involving transfer of the ownership of a project, the notice shall include the name of the transferee, the date that the transfer was agreed to, the date the transfer is to take place,*

and telephone numbers and electronic mail addresses at which to contact the transferor and transferee.

(B) *NOTICE TO SECRETARY.*—To the Secretary, notice that the requirements under subparagraph (A) have been met, which shall identify the date that notice under such subparagraph was made and the names of each tenant to which such notice was provided.

(3) *RURAL TENANT PROTECTION VOUCHERS.*—

(A) *IN GENERAL.*—In the case of a housing project subject to a loan made under section 515, if the loan is prepaid or foreclosed upon, the Secretary shall, to the extent that amounts for assistance under this paragraph are provided in advance in appropriation Acts, offer voucher assistance to each low-income family who on the date that notice is provided in accordance with paragraph (2)(A) is residing in a dwelling unit in the project.

(B) *USE.*—A voucher under this paragraph for a family may be used for rental of a dwelling unit in the project that the family resides in on the date of the notice in accordance with paragraph (2)(A) or for a dwelling unit elsewhere.

(C) *RENEWAL.*—Vouchers under this paragraph shall be renewed annually, subject to the availability of appropriations for such renewal, during the period that the family assisted remains eligible for such assistance.

(D) *RIGHT TO USE.*—In the case of a project for which a loan made under section 515 is prepaid—

(i) a family residing in such project on the date of prepayment may elect to remain in the unit in which the family was residing on such date; and

(ii) the owner of the project may not refuse to lease, to a family for whom voucher assistance under this paragraph is made available, any available rental dwelling unit in the project.

(E) *AMOUNT OF ASSISTANCE.*—The amount of rental assistance provided under a voucher under this paragraph on behalf of a tenant shall be the amount by which—

(i) the lesser of (I) the rent for the dwelling unit rented using such voucher, or (II) the rent for a comparable unit in the same market area as the housing project for which the loan was prepaid; exceeds

(ii) the lesser of (I) the amount of rent paid by the tenant for the dwelling unit occupied by the tenant at the time of the prepayment referred to in paragraph (1), or (II) the amount equal to 30 percent of the tenant's adjusted income (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(F) *RURAL AFFORDABLE VOUCHER.*—For communities with insufficient affordable housing alternatives, and in the case of any elderly or disabled tenant who is eligible for a voucher under this paragraph and has a need to move to another community to be near immediate family or necessary medical services, as determined by the Secretary, voucher assistance under this paragraph may be provided

in accordance with section 8(t)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)(1)).

(G) ADMINISTRATION.—To the maximum extent practicable, the Secretary shall administer voucher assistance under this paragraph in accordance with, but not subject to, regulations and administrative guidance for housing vouchers administered by the Secretary of Housing and Urban Development under section 8 of such Act.

(H) HOMEOWNERSHIP OPPORTUNITIES.—A voucher under this paragraph may be used by a tenant to make payments towards the purchase of a single-family home anywhere in the United States, subject to subsidy limits for vouchers under this title and the same limitations applicable under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to the use of tenant-based assistance under such section 8 for homeownership.

(I) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for tenant protection vouchers under this paragraph—

(i) for fiscal year 2007, \$74,000,000; and

(ii) for each of fiscal years 2008 through 2011, the amount necessary to provide vouchers in each such fiscal year for all of the families identified in subparagraph (A).

(4) PREPAYMENT STANDARDS FOR PRE-1989 LOANS.—In the case of a loan made or insured under section 515 pursuant to a contract entered into before December 15, 1989:

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall approve any offer to prepay such a loan that meets the following requirements:

(i) The borrower under the loan has not been provided any assistance to extend low-income use pursuant to section 502(c)(4) of this Act, as such section was in effect before the date of the enactment of the Saving America's Rural Housing Act of 2006.

(ii) The loan was not at any time restricted by servicing actions, including transfers.

(iii) The 20-year period during which the project is subject to use restrictions under the loan has concluded.

(B) PROHIBITION.—The Secretary may not approve any offer to prepay such a loan during the 20-year period during which the project is subject to use restrictions under the loan.

(5) SALE RESTRICTIONS AND MARKETING ASSISTANCE.—

(A) SALE RESTRICTIONS.—During the period that begins upon the owner providing notice to the Secretary under paragraph (2)(B) and having a duration of 75 days, the owner may not sell the property except to a purchaser who enters into such binding agreements for purchase at market rates as the Secretary considers necessary to continue the property use restrictions with respect to the project in accordance with this title for a period of 20 years. This paragraph may not be construed to prohibit an owner, during

such period, from soliciting or receiving any offers of sale or purchase.

(B) MARKETING ASSISTANCE.—

(i) DATABASE OF POTENTIAL BUYERS.—The Secretary shall establish and maintain a database of potential buyers of projects with loans made under section 515. Such database shall include only persons who have expressed an interest to the Secretary in purchasing such projects at fair market value and maintaining the projects for use as affordable housing.

(ii) PUBLIC NOTIFICATION OF PREPAYMENT.—Upon notification to the Secretary under paragraph (2)(B) regarding prepayment of a loan for a project, the Secretary shall make publicly available, on the appropriate World Wide Web site of the Department or by other appropriate electronic method, including individual notification, a notice containing information sufficient, in the determination of the Secretary, to notify persons with an interest in purchasing the project of the prepayment.

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DIRECT AND INSURED LOANS TO PROVIDE HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES IN RURAL AREAS

SEC. 515. (a) \* \* \*

\* \* \* \* \*

(j)(1) For the purpose of achieving the lowest cost in providing units in newly constructed projects assisted under this section, the Secretary shall give a preference in entering into contracts under this section for projects which are to be located on specific tracts of land provided by States, units of local government, or others if the Secretary determines that the tract of land is suitable for such housing, and that affording such preference will be cost effective.

(2) The Secretary may give priority, in entering into contracts under this section involving financing for new construction of a project, for projects located in areas having a need for affordable low-income rental housing due to prepayment of loans made or insured under this section.

\* \* \* \* \*

SEC. 537. OFFICE OF RURAL HOUSING PRESERVATION.

(a) \* \* \*

(b) PURPOSES.—The purposes of the Office are:

(1) to review and process applications under section 502(c) and section 515(t) related to the preservation of rural rental housing and to administer the revitalization program under section 544;

\* \* \* \* \*

SEC. 544. REVITALIZATION AND TENANT PROTECTION VOUCHERS.

(a) PURPOSE.—The purposes of this section are—

(1) to protect tenants who live in multifamily housing projects that are subsidized under this title and, in the case of prepay-

ments of loans under section 515, to protect tenants that are displaced when the projects cease being eligible projects;

(2) to strengthen the long-term viability of eligible projects;

(3) to promote the revitalization of rural multifamily housing projects; and

(4) to accomplish such several purposes—

(A) by providing a voluntary mechanism for project owners to enter into loan restructuring agreements with the Secretary to obtain new types of financial assistance to rehabilitate and maintain the projects; and

(B) by deregulating certain projects in a manner that still provides measurable performance standards and effective financing and rehabilitation of multifamily housing.

(b) REVITALIZATION.—

(1) IN GENERAL.—The Secretary shall, subject to the availability of amounts appropriated, carry out a revitalization program in accordance with this subsection to provide financial incentives and other assistance to owners of eligible projects through voluntary long-term use agreements entered into between the project owners and the Secretary.

(2) APPLICATIONS TO PARTICIPATE.—The Secretary may accept applications from owners of eligible projects to participate in the revitalization program under this section.

(3) LONG-TERM VIABILITY PLAN.—

(A) REQUIREMENT.—The Secretary may prepare and approve a long-term viability plan under this paragraph with respect to each eligible project for which the owner requests to participate.

(B) CONTENTS.—Each long-term viability plan for an eligible project shall include the following information:

(i) PHYSICAL NEEDS ASSESSMENT.—A physical needs assessment of the project that identifies and projects, for the following 20 years—

(I) all necessary repairs, improvements, maintenance, and management standards for the project, and when they will be made, in order to meet the requirements of this title; and

(II) the costs associated with the items referred to in this subparagraph (A).

(ii) FINANCIAL PLAN.—A financial plan for the project that—

(I) reviews the financial stability of the project;

(II) includes the loan restructuring elements, rent adjustments, management and operational efficiencies, and other financial adjustments to the project that are necessary to cover operating expenses for the project and maintain an adequate financial reserve for the future maintenance and capital needs of the project;

(III) provides the project owner with a long-term rate of return on new capital, as determined by the Secretary, commensurate to comparable commercial multifamily housing projects;

(IV) meets the physical needs for the project determined under the physical needs assessment;

(V) ensures that rents available under the plan are affordable to eligible households in accordance with paragraph (7); and

(VI) addresses any costs associated with any temporary tenant displacement resulting from renovations or rehabilitation undertaken as a result of participation of the project in the revitalization program.

(C) *DEVELOPMENT THROUGH PARTICIPATING ADMINISTRATIVE ENTITIES.*—The Secretary may develop long-term viability plans through the use of third-party participating administrative entities, who may be a private contractor, a State housing finance agency, or a nonprofit organization.

(D) *REVITALIZATION DETERMINATION.*—Based on the long-term viability plan for an eligible project, the Secretary shall determine whether to offer the project owner a financial restructuring plan under paragraph (4) and the financial incentives to be included in any such plan offered.

(E) *FINAL REVIEW AND COMMENT.*—With respect to any long-term viability plan prepared by the Secretary, the Secretary shall provide the project owner an opportunity to review the plan and discuss the plan with the Secretary or its agent before a determination is made under subparagraph (D).

(F) *FEES.*—The Secretary may charge the project owner a fee for preparation of the long-term viability plan.

(G) *PAYMENT OF FEES.*—If a long-term viability for a project is approved, the payment of such fee may be incorporated into a project owner's financial restructuring plan for the project provided by the Secretary pursuant to paragraph (4)

(4) *FINANCIAL RESTRUCTURING PLAN; REVITALIZATION INCENTIVES.*—Based on the long-term viability plan for an eligible project, the Secretary may offer a project owner a financial restructuring plan for the project. Such a plan may include one or more of the following revitalization incentives:

(A) Reduction or elimination of interest on the loan or loans for the project made under section 515.

(B) Partial or full deferral of payments due under such loan or loans.

(C) Forgiveness of such loan or loans.

(D) Subordination of such loan or loans, subject to such terms and conditions as the Secretary shall determine.

(E) Reamortization of loan payments under such loan or loans over extended terms.

(F) A grant from the Secretary for the project.

(G) Payment of project costs associated with developing the long-term viability plan.

(H) Opportunity for project owners to obtain further investment equity from third parties in the project.

(I) A direct loan or guarantee of a loan for the project, with a subsidized interest rate without regard to the value of the project.

(5) *LONG-TERM USE AGREEMENT.*—

(A) *IN GENERAL.*—If the owner of an eligible project agrees to the terms of a financial restructuring plan for the project providing revitalization benefits under paragraph (4), in exchange for such benefits, the Secretary and the project owner shall enter into a long-term use agreement under this paragraph for the project.

(B) *AGREEMENT.*—A long-term use agreement for an eligible project shall include—

(i) the terms of the financial restructuring plan for the project, including any revitalization incentives to be provided;

(ii) an agreement by the project owner—

(I) to continue the property use restrictions with respect to the project in accordance with this title for a period of (aa) 20 years, or (bb) the remaining term of any loans under this title for the project, whichever ends later;

(II) to comply with the long-term viability plan for the project;

(III) to comply with the rent terms under paragraph (7) for the project; and

(IV) to make value payments under paragraph (6) to the Secretary, and the terms of such payments;

(iii) provisions terminating the agreement if any revitalization incentives for the project to be provided under the agreement are no longer available and the Secretary determines that such unavailability is not the fault of the owner;

(iv) any rent terms for the project pursuant to paragraph (7);

(v) a covenant which runs with the land; and

(vi) such other terms as the Secretary determines are necessary to implement the purposes of this section.

(6) *SHARED VALUE AGREEMENTS.*—Each long-term use agreement shall include a shared value agreement secured by the property of the eligible project that is the subject of the long-term use agreement, which shall determine how proceeds are divided at the end of the term of the loan or loans and shall require the project owner, at the end of such loan term or terms, to pay the lesser of—

(A) the sum of—

(i) the amounts of any loan writedowns, write-offs, and interest subsidies provided in connection with the loan restructuring under this subsection, at the closing of revitalization;

(ii) any outstanding principal and interest; and

(iii) any non-loan funds provided by the Secretary under this subsection; or

(B) 75 percent of the appraised value of the eligible project.

(7) *RENTS UNDER LONG-TERM USE AGREEMENT.*—In any eligible project that is subject to a long-term use agreement, rents for eligible households shall comply with the following requirements:

(A) *MINIMUM RENT.*—The Secretary, acting through the director of the applicable local agency or office of the Department responsible for carrying out the programs under this title in such area, may provide that each eligible household is charged a minimum monthly rent in an amount determined by such local director that does not in any case exceed \$25. The Secretary may allow exceptions to such minimum rent for an eligible household or groups of eligible households for demonstrated hardship, as determined by the Secretary, which hardship exceptions, if allowed by the Secretary, shall include the hardship exceptions provided or established by the Secretary of Housing and Urban Development, as appropriate, under subclauses (I) through (V) of section 3(a)(3)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(3)(B)(i)).

(B) *MAXIMUM HOUSEHOLD CONTRIBUTION TO RENT.*—Notwithstanding any minimum monthly rent established pursuant to subparagraph (A), the maximum household contribution to monthly rent for any eligible household may not exceed 30 percent of the adjusted income of the eligible household. Such local director may take actions as may be necessary to verify tenant incomes for purposes of carrying out this subparagraph.

(C) *RENT ADJUSTMENTS.*—The rents for eligible households may be increased or decreased only on an annual basis and only in accordance with standards incorporated in such agreement. The Secretary shall issue regulations establishing such standards, which shall include standards for rents that are considered affordable for eligible households for the area in which a project is located and for establishing rents that conform to such standards.

(8) *LOWEST COST REQUIREMENT.*—In determining the terms of a restructuring plan, and the type and amount of revitalization benefits under such plan to approve under this subsection for an eligible project, the Secretary shall, to the extent practicable, approve assistance that imposes the least cost to the Secretary while meeting the requirements of the long-term viability plan for the project.

(9) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the revitalization program under this subsection.

(c) *HOMEOWNERSHIP OPPORTUNITIES.*—The owner of an eligible project may, in conjunction with revitalization of the project pursuant to this section, propose a sale to a tenant-based condominium or cooperative. Any such proposal shall be subject to a notice to tenants under terms that the Secretary shall establish.

(d) *DETERMINATION OF INELIGIBILITY.*—

(1) *PROCEDURE.*—The Secretary may determine that a project owner is ineligible for participation in the revitalization program under this section in accordance with the standards under paragraph (2).

(2) *STANDARDS.*—The Secretary may determine that a project owner is ineligible if—

(A) the project owner has a history of poor management or maintenance of multifamily housing properties;

(B) the project owner is in default on a loan made available under the section 514 or 515 housing program;

(C) the Secretary is unable to enter into a long-term use agreement for the project that is the subject of the application with the project owner within a reasonable time;

(D) the project owner is suspended or debarred from participating in Federal contracts or programs; or

(E) the Secretary has other good cause for withholding from the project owner the benefits made available under this section.

(e) *DEFINITIONS.*—For purposes of this section, the following definitions shall apply:

(1) *ELIGIBLE HOUSEHOLD.*—The term “eligible household” means a household that, under section 515, is eligible to reside in a project funded with a loan made by the Secretary under such section.

(2) *ELIGIBLE PROJECT.*—The term “eligible project” means a housing project funded with a loan made at any time by the Secretary under section 515, the principal obligation of which has not been fully repaid.

(3) *PROJECT OWNER; OWNER.*—The terms “project owner” and “owner” mean, with respect to an eligible project, an individual or entity, or principals thereof that own, or plan to purchase, the project.

\* \* \* \* \*

## ADDITIONAL VIEWS

H.R. 5039 is needed legislation, and I compliment Congressman Geoff Davis for his work on the bill. USDA Rural Development's review of rental properties built through the Section 515 program shows that many are in bad shape and that owners are short on funding for improvements. If Congress does not set up an effective means for RHS to help owners revitalize these properties, rural residents will lose affordable housing options.

Before this legislation is considered in the House, I believe the Committee needs to give further consideration to the provision in the legislation that caps tenant contribution to rent in restructured properties at 30 percent of income. I understand that the Committee's intent is to protect currently overburdened tenants living in developments at the time of loan restructuring. However, this cap on rent contribution will likely also result in higher costs for USDA that will limit the number of properties that can undergo loan restructuring and revitalization.

Like Rural Development, I am concerned that the cap on tenant rent contribution will force USDA to restructure only properties with few overburdened tenants or force property owners to rent to tenants who do not pay more than 30 percent of their income toward rent. In addition, investors and other industry participants may have difficulty in predicting cash flows and the incomes of future tenants. This provision in H.R. 5039 results in a high liability on the federal government, property owners and possibly other tenants by increasing the cost of preserving these properties.

Rural Development has proposed a solution that gives the agency flexibility when entering into restructuring agreements, helping to control costs while also protecting tenants overburdened at the time of restructuring. I ask that the Committee consider RHS' recommendations in order to refine H.R. 5039 so that the goals of preserving units and protecting tenants will be realized in a reasonable, cost-effective way that will encourage preservation, rather than make it more difficult.

## LOW INCOME HOUSING TAX CREDIT EQUITY

In addition to the use of other restructuring incentives, I believe that Rural Development should have the discretion to create a rule permitting the return of low-income housing tax credit equity to Section 515 owners for hard-construction costs where appropriate. While the introduced version of H.R. 5039 contained a provision explicitly allowing the return of this equity, this provision was removed at subcommittee markup without any prejudice regarding Rural Development's existing tools and flexibility at the time of restructuring. Notwithstanding this removal, I encourage Rural Development to consider the return of low-income housing tax-credit equity for hard-construction costs as a restructuring tool. The low-

income housing tax credit has been a very useful tool for affordable housing development, and credit equity will be useful to property owners in revitalization.

RANDY NEUGEBAUER.

